

argument upon the fact of the publication in three local newspapers of matter which censured in strong terms the State's investigation of the circumstances of the murder after the subject matter had been considered and disposed of by two ~~grand~~ grand juries and further represented that great expense was being and would be incurred in continuing the investigation, all of which expense would have to be borne by the owners of real estate, and tax payers of Somerset County; that the public mind has become so inflamed and prejudiced against the investigation that a fair and impartial trial cannot be had. In plain terms the contention is that a prospective juror who is a tax payer would be so incensed against the State because of increased burden of taxation put upon him by reason of the investigation, that regardless of his oath to determine the case upon the evidence adduced in Court, he would be influenced by the newspaper articles to disregard his oath and commit moral perjury. That these newspaper articles would have no such dreaded effect upon conscientious jurors, as claimed by the State, has been clearly demonstrated by the fact that though these newspaper articles were published before any indictments were found against the defendants, and though one of the owners or editors of the newspaper in which one of the censured articles appeared, was a member of the Grand Jury, representative citizens and tax payers of Somerset County found indictments against the defendants. This circumstance alone is sufficient to convince this Court that the fear which counsel of the State apprehends that a petit jury will be influenced by the published clippings is more chimerical than real.

The affidavits relied on by the State are far from being clear and convincing that a fair and impartial trial by the petit jury, as summoned, cannot be had, and therefore the application for a foreign jury is denied.

Mr. Justice Katzenbach authorizes me to say that he concurs in the views and conclusion herein expressed.